

REMARKS/ARGUMENTS

Favorable reconsideration of this application in light of the following discussion is respectfully requested.

Claims 11-22 are pending in the present application, Claims 11, 18, and 20-22 having been amended. Support for the amendments to Claims 11, 18, and 20-22 are believed to be self-evident from the originally filed specification. Applicants respectfully submit that no new matter is added.

In the outstanding Office Action, Claims 11-13, 15, 20-22 were rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. 2003/0172160A9 to Widegren et al. (hereinafter Widegren); Claim 14 was rejected under 35 U.S.C 103(a) as being unpatentable over Widegren in view of U.S. 2004/0053606A1 to Artamo et al. (hereinafter Artamo); Claims 16 and 17 were rejected under 35 U.S.C § 103(a) as being unpatentable over Widegren in view of WO 00/10357 to Haumont; and Claims 18 and 19 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Widegren in view of U.S. 2002/0068588A1 to Yoshida et al (hereinafter Yoshida).

Applicants thank the Examiner for the courtesy of an interview extended to Applicants' representative on March 17, 2009. During the interview, differences between the present invention and the applied art, and the rejections noted in the outstanding Office Action were discussed. The Examiner indicated that the amended claim may distinguish over the art of record. However, no agreement as to allowability was reached as the amended form of the claims required further searching. Arguments and claim amendments presented during the interview are reiterated below.

With respect to the rejection of Claim 11 as anticipated by Widegren, Applicants respectfully submit that the amendment to Claim 11 overcomes this ground of rejection. The amendment to Claim 11 clarifies the setting of the priority. Particularly, Claim 11 is

amended to recite, *inter alia*, “a priority setting unit configured to set a priority for the transfer path such that packet data transmitted from the base station along the transfer path to the control apparatus is processed according to the priority set for the transfer path by the transfer path setting unit.” Widegren does not disclose or suggest this feature of amended Claim 11.

In an exemplary embodiment described in Applicants’ specification, when packet data is subsequently sent from the mobile station to the network, the network regenerates a packet including the user data and replaces an existing TOS field with a bit code representative of the priority previously *set for the transfer path*.¹ In other words, priority is given to the packets based on the transfer path being used. This is different from how priority is assigned in Widegren.

Widegren discloses a method for assuring end-to-end QoS for multimedia sessions between diverse networks. As seen in Fig. 1 of Widegren the end users (user A and user B) of the multimedia session each have an associated LAN (105, 106) connected through an IP network 104. One of the LANs (105, 106) may be a 3G UMTS mobile network. During session set up between the networks, each of the users request confirmation from the other user that the other user’s LAN can provide the QoS required for the session.²

However, Widegren et al. does not disclose setting a priority *for the transfer path*.

In Widegren, priority is based on a negotiation between the endpoints and packets of data of assigned a given priority based on their respective endpoints.³ As discussed in paragraph [0074] of Widegren, the IP header of the packet defines the QoS for the packet. This is not the same as *set a priority for the transfer path* such that packet data transmitted

¹ See Applicants’ specification at paragraphs [0089]-[0093].

² Widegren, paragraphs [0073]-[0074].

³ Widegren, paragraphs [0073]-[0074].

from the base station along the transfer path to the control apparatus is processed according to the priority set for the transfer path by the transfer path setting unit.

The outstanding Office Action heavily relies upon paragraph [0098] of Widegren to describe setting a priority. However, paragraph [0098] of Widegren merely states “RNC determines the radio-related parameters corresponding to the QoS profile.” Assuming, *arguendo*, that priority data is carried by the “radio-related parameters,” this priority data is specific to packets transferred between the mobile stations (A and B discussed *supra*) and is not specific to a transfer path. While the Office takes the position that the “radio-related parameters” of Widegren implicitly “carry the priority of the data,”⁴ there is no evidence in the record to suggest that the “radio-related parameters” carry “*a priority for the transfer path*” such that packet data transmitted from the base station along the transfer path to the control apparatus is processed according to the priority set for the transfer path by the transfer path setting unit.”

In view of the above-noted distinctions, Applicants respectfully submit that Claim 11 (and any claims dependent thereon) patentably distinguish over Widegren. Claims 20, 21 and 22 recite elements analogous to those of Claim 11. Thus, Applicants respectfully submit that Claims 20, 21 and 22 patentably distinguish over Widegren for at least the reasons stated for Claim 11.

The secondary references to Artamo, Haumont and Yoshida are cited for teachings of the dependent claims the rejection of which relies on the teachings of Widegren as noted above. Therefore, the secondary references do not correct the deficiencies of Widegren and independent Claims 11, 20, 21 and 22 patentably define over the cited references, taken alone or in proper combination.

⁴ Office Action, page 10.

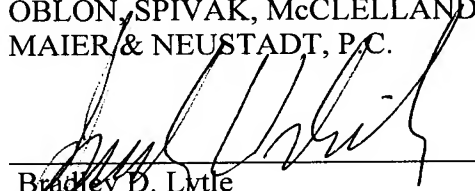
Consequently, in view of the present response, no further issues are believed to be outstanding in the present application and the present application is believed to be in condition for formal allowance. An early and favorable action is therefore respectfully requested.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,
MAIER & NEUSTADT, P.C.

Customer Number
22850

Tel: (703) 413-3000
Fax: (703) 413 -2220
(OSMMN 08/07)



Bradley D. Lytle
Attorney of Record
Registration No. 40,073
Joseph Wrkich
Registration No. 53,796